

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS

## POLICY CHAPTER: LEVEL OF CARE ELIGIBILITY FOR LONG-TERM CARE PROGRAMS

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*Guidelines for the Processing of Long Term Care Program Eligibility  
Requests*

11/25/2008

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# LEVEL OF CARE ELIGIBILITY FOR LONG-TERM CARE PROGRAMS

## 1.0. AUTHORITY

Nursing Facilities—Standards for Payment, Level of Care Determination (LAC 50:II.10154) Title 50, PUBLIC HEALTH—MEDICAL ASSISTANCE, Part II. Medical Assistance Program, Subpart 3. Standards for Payment, Chapter 101. Standards for Payment for Nursing Facilities, Subchapter G. Levels of Care.

## 2.0. PURPOSE OF THIS DOCUMENT

This document is designed to set forth OAAS policies governing the process of level of care determinations and to give instructions to the OAAS employee or other designees relative to the processing of applications for long-term care services.

## 3.0. ELIGIBILITY REQUIREMENTS

Each long-term care program which OAAS administers has requirements which must be met in order for the individual to be determined eligible. These eligibility requirements can be grouped into three major groupings: financial eligibility, program requirements and functional eligibility.

### 3.1. FINANCIAL ELIGIBILITY

Financial eligibility for Medicaid-funded programs is determined by the local Medicaid offices. Maximum income and resource limits are announced each year by the Medicaid division of DHH. Current income and resource limits are posted for each program at [www.oaas.dhh.louisiana.gov](http://www.oaas.dhh.louisiana.gov) . Medicaid financial eligibility rules are complex. Certain

income and resources may be excluded from these limits. OAAS employees should not advise clients that they are ineligible based on these limits, and any questions about financial eligibility must be referred to the appropriate Medicaid office.

### 3.2. PROGRAM REQUIREMENTS

Program requirements are defined in program rules and policies and are specific to each program which OAAS administers. Examples are: for the EDA Waiver, the individual's health, safety and welfare must be able to be assured in the home setting; for LT-PCS, the documentation must show that there are no available informal supports that are able to provide the services being requested. Some programs require that there be a determination of Imminent Risk of nursing facility placement. All program requirements for a specific program must be met in order for the client to be determined eligible for that program.

### 3.3. FUNCTIONAL ELIGIBILITY

All long-term care programs administered by OAAS currently have nursing facility level of care as their threshold functional eligibility requirement. OAAS uses the Level of Care Eligibility Tool (LOCET) to help determine if an individual has met nursing facility level of care for entry into any OAAS long-term care program.

## 4.0. UNIFORM CRITERIA FOR NURSING FACILITY LEVEL OF CARE DETERMINATION

The nursing facility level of care determination is based on the Resource Utilization Groups III (RUG-III) case mix system used in the Medicare Program and in many state Medicaid programs. RUG-III is a patient classification system that measures for the relative resource utilization of different nursing facility patient types [*Federal Register*, Volume 63, Number

91 (May 12, 1998)]. It is utilized to ensure consistency, uniformity, and reliability in making nursing facility level of care determinations.

1. RUG-III assigns each nursing facility resident to one of 44 distinct classification groups, based on the characteristics of the resident as assessed in the Nursing Home Minimum Data Set (MDS), so as to predict the resources expected to be used to meet the resident's functional support requirements and medical needs. The Long Term Care Resident Assessment Instrument User's Manual for the MDS explains how resident characteristics are used to assign an individual to a RUG-III classification.

2. Medicare presumes that individuals assigned to the upper 26 of 44 RUG-III classification groups meet the skilled nursing facility level of care definition set forth in federal law. However, states have the discretion to establish their own definitions of nursing facility level of care for purposes of the Medicaid Program.

3. Louisiana defines nursing facility level of care for Medicaid eligible individuals as the care required by individuals with needs greater than those identified by the lowest of the RUG-III classification groups (*i.e.*, Physical Function Reduced Group A, with or without rehabilitation, also known as PA1 and PA2). Individuals determined to be in any of the upper 42 of 44 RUG-III classification groups meet the level of care for nursing facility admission and/or continued stay for the purposes of the Louisiana Medicaid Program.

## 5.0. INITIAL LEVEL OF CARE DETERMINATION BY LOCET

The Level of Care Evaluation Tool (LOCET), is used as an initial determination to ascertain whether an individual meets the nursing facility level of care. The LOCET is derived from selected information in the Minimum Data Set (MDS), which is the standardized assessment tool used to assign nursing facility residents to a RUG-III classification group. Consistent with the standard of nursing facility level of care defined above, the MDS data elements included in LOCET are those necessary to determine whether an individual would be assigned to a RUG-III category other than PA1 or PA2. To make this assessment, LOCET

questions address the individual's need for assistance with the activities of daily living; cognitive function; skilled rehabilitative services; physician involvement; behavior; and certain treatment and conditions.

The LOCET information must be provided by the individual or someone who is sufficiently familiar with the individual to be able to provide all required information completely and accurately.

The LOCET will presumptively determine functional eligibility for most individuals who request OAAS long-term care services. (See Section 6.5 for further discussion of the presumptive nature of LOCET determinations.) This functional eligibility is frequently referred to as the level of care determination.

The LOCET is a scientifically developed and research-based evaluation tool which establishes uniform criteria for the determination of nursing facility level of care. The LOCET is required in conjunction with additional assessment and screening tools, as specified, for the entry to all long-term care programs. Since the LOCET is completed by telephone for several programs, the subsequently completed MDS done face-to-face, will supersede (or override) the presumptive LOCET determination derived from a telephone interview.

The nursing facility level of care is determined by LOCET by investigating seven pathways. In order to meet functional eligibility, a client must meet eligibility requirements in only one Pathway. The seven distinct Pathways in LOCET are:

- Activities of Daily Living
- Cognitive Performance
- Physician Involvement
- Treatments and Conditions
- Skilled Rehabilitation Therapies



- Behavior
- Service Dependency

When the criteria for level of care are met within a Pathway, that Pathway is said to have “triggered.”

**An approval LOCET determination will stand for a period of one year.** It can be superseded by a face-to-face MDS-HC, MDS or Audit Review. The Audit Review process is explained in Section 10.0.

## 5.1. THE LOCET PATHWAYS

The seven pathways within the LOCET will elicit specifics regarding the client’s functional capabilities, his receipt of assistance with Activities of Daily Living and Instrumental Activities of Daily Living, current medical treatments and conditions, and other aspects of his life during the recent past. These pathways of eligibility focus on information which will be used in the RUG-III determination of nursing facility level of care.

- **Pathway 1, Activities of Daily Living:**
  - The Pathway under which most individuals will meet the level of care criteria.
  - Identifies those individuals with a significant loss of independent function measured by the amount of assistance received from another person in the period just prior to the day the LOCET is administered.
  - Activities of daily living for which LOCET elicits information are: locomotion (getting around in the individual’s home), dressing, eating, bed mobility (moving around while in bed), transferring (moving from one surface to another), toileting, and personal hygiene. For a complete description of these activities of daily living please see the LOCET System User Intake Manual.

An individual can vary in Activities of Daily Living performance from day to day. Intake Analysts are instructed to capture the total picture of activity of daily living performance over a 7-day period. This 7-day “look-back period” is based on the date the LOCET is

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completed. Since accurate coding is important for making eligibility decisions, the Intake Analyst is taught to be sure to consider fully each activity definition.

Because many in Louisiana do not have benefit of another person's presence in their homes on a regular basis, and therefore do not receive personal assistance with Activities of Daily Living, Exception Criteria has been developed which will identify these individuals. The Exception Criteria will be discussed in Section 6.1.

- **Pathway 2, Cognitive Function:**

- Uses the Cognitive Performance Scale to identify clients with cognitive difficulties, especially difficulties with short-term memory and daily decision-making.
- Ability to remember, think coherently, and organize daily self-care activities is very important.
- Focus is on performance, including a demonstrated ability to remember recent events and perform key decision-making skills.

- **Pathways 3, 4 and 5, Physician Involvement, Treatments and Conditions, Rehabilitative Treatments:**

- Triggered by acute or unstable medical or rehabilitative conditions which meet level of care requirements.

- **Pathway 6, Behavior:**

- Triggered by repetitive behavioral challenges, including wandering, verbally or physically abusive behavior, socially inappropriate behavior, and delusions or hallucinations which have impacted the client's ability to function in the community within the previous week.

- **Pathway 7, Service Dependency:**

- Established so that individuals who may not meet the new definition of nursing facility level of care will not lose services they became dependent upon prior to 12/01/2006. Pathway 7 is discussed fully in Section 6.4.

Additional information regarding Nursing Facility Admissions process is found in the Nursing Facility Admission Chapter.

## 5.2. THE LOCET INTAKE ANALYST

Persons who are specially trained to perform the LOCET interview are designated as Intake Analysts. Intake Analyst training sessions are given on a regular basis by OAAS State Office. Representatives from agencies or organizations designated by OAAS to administer LOCET attend these sessions to learn how to conduct the LOCET interview, how to code the LOCET properly, and to receive an Intake Analyst Registration Number.

The Intake Analyst Registration Number must be entered on each LOCET which is completed. A LOCET is considered invalid and void without the presence of an Intake Analyst Registration Number. The registration process for Intake Analysts is discussed in the LOCET System User Intake Manual.

## 6.0. EXCEPTION CRITERIA AND ADDITIONAL DOCUMENTATION REQUIREMENTS

### 6.1. EXCEPTION CRITERIA AND ALTERNATE PATHWAY 1 QUESTIONS

For Home and Community-Based Services, the Intake Analyst will gather information in the LOCET Caregiver item (Item B.10) to determine if there is actually a caregiver actively present for the applicant.

The Exception Criteria definition for an active caregiver is:

1. A person who is at least 18 years old who cares for or helps the individual, AND
2. Who usually sees the individual three or more days per week, AND

3. Who helps the individual with any Activity of Daily Living (bathing, dressing, grooming, bed mobility, transferring, toileting, eating or locomotion).

Non-nursing facility Intake Analysts are trained to use a decision tree (Caregiver Drilldown) to determine if an active caregiver is present for the individual. If, by use of the Caregiver Drilldown questions, it is determined that there is no active caregiver present, the Intake Analyst will ask Alternate Pathway 1 questions rather than the standard Pathway 1 questions.

The Alternate Pathway 1 questions elicit information about the difficulty level the individual experienced when completing activities of daily living without assistance during the period just prior to the LOCET. The Intake Analyst is trained to code the LOCET so that any degree of difficulty noted in the late loss Activities of Daily Living (eating, toileting, transferring and bed mobility) will trigger Pathway 1. A code of limited assistance or greater in any of these late loss Activities of Daily Living will indicate that an individual has met level of care criteria in Pathway 1.

For individuals requesting nursing facility services, the Exception Criteria is investigated by OAAS staff when the following conditions have been met:

- The LOCET which the nursing facility submitted does not trigger any pathway AND
- The individual's admit date is not more than six days prior to the date the LOCET is completed (date shown on LOCET in Item EE.2).

If the individual was in the nursing facility for each of the seven days prior to the date of the LOCET, the Exception Criteria does not apply to him: he has had benefit of caregivers in the nursing facility during all of the Pathway 1 look-back period while he was in the nursing facility.

If the above criteria are met, the OAAS Nursing Facility Admission Unit staff then contacts the individual in the nursing facility to elicit answers to the Caregiver Drilldown questions, and if indicated, to the Alternate Pathway 1 questions. The focus of the Caregiver Drilldown questions (and subsequent Alternate Pathway 1 questions, if indicated) will be the time during the 7 days prior to the LOCET date when the individual was at home, not while he was in the nursing facility.

## 6.2. PATHWAYS REQUIRING ADDITIONAL DOCUMENTATION

During the LOCET interview, the LOCET Intake Analyst will gather information from the individual and code answers to items according to the instructions given. The Intake Analyst will obtain information from all available sources in order to code the best answer for each LOCET item.

Each Pathway in LOCET contains criteria which must be met in order for that Pathway to trigger. If the answers to a Pathway's items do not indicate that level of care is (presumptively) met by that Pathway, the Pathway will remain "not triggered."

Three of LOCET's Pathways do not require any additional documentation to support a (presumptive) level of care approval: Triggers in Pathways 1, 2 and 6, Activities of Daily Living, Cognition and Behavior, will stand alone in this determination.

Approval in Pathways 3, 4, 5 and 7 alone or a combination thereof require additional information prior to the determination of approval status for nursing facility level of care. These Pathways are Physician Involvement, Treatments and Conditions, Rehabilitative Conditions and Service Dependency. For Pathways 3, 4 or 5, the required additional information is medical in nature. OAAS has developed the Statement of Medical Status (Form OAAS-PF-06-009) for collection of medical data which will document the presence or absence of conditions / treatments noted in Pathways 3, 4 or 5. This form is sent to the individual with instructions for him to have an authorized person in his treating physician's office to complete the form and return it for review. The review process instructions for Pathways 3, 4 or 5 are found in the LOCET System User Intake Manual.

**NOTE:** If the individual has applied for HCBS program(s) and his only Pathway(s) of approval are Pathways 3, 4 or 5 AND his Statement of Medical Status confirms Level of Care eligibility has been met, AND this individual's subsequent MDS-HC does not trigger Pathways 1, 2 or 6, the Pathway 3, 4 or 5 confirmed approval on the LOCET

will serve as his eligibility for level of care on the MDS-HC for the current assessment period. See Section 11.4 for further discussion of this aspect.

Approval in Pathway 7 necessitates review from Medicaid records which would indicate the individual was in a Medicaid-funded long term program / facility prior to 12/01/2006 and has had no break in service to the present day. Details on Pathway 7 stipulations and the review process are provided in Section 6.4.

However, if an individual's LOCET triggers Pathways 3, 4, 5 or 7 in conjunction with Pathways 1, 2 or 6, there is no need to request additional information for review. As noted earlier, it is only necessary to trigger one pathway in order to (presumptively) meet level of care. It can be said that the individual has (presumptively) met the nursing facility level of care determination by the presence of the trigger(s) in Pathways 1, 2 or 6.

The LOCET will make a separate determination for the individual's Imminent Risk of Nursing Facility placement based on information gathered and coded on the LOCET. As stated earlier, some long-term care programs require the client to meet Imminent Risk criteria prior to the receipt of services. This will be discussed later in this chapter. See Section 7.0.

### 6.3. REVIEW OF PATHWAYS 3, 4 OR 5 DOCUMENTATION

Individuals who trigger only in LOCET Pathways 3, 4, or 5 will require a Statement of Medical Status (Form OAAS-PF-06-009) to be completed by a health care professional associated with the individual's physician. This Statement of Medical Status (Form OAAS-PF-06-009) must be forwarded to the OAAS-designated review agency upon completion. The OAAS-designated reviewer will determine if the condition or treatment indicated on the LOCET is documented by the health care professional.

The criteria for approval of Pathways 3, 4 or 5 are found in the memo OAAS-ADM-08-015. The documentation submitted must support the established criteria in order for the LOCET to be approved based upon Pathways 3, 4 or 5.

The reviewer will determine if the conditions and/or treatments indicated in LOCET Pathways 3, 4, and/or 5 are supported by the Statement of Medical Status (Form OAAS-PF-06-009). If there is any question regarding whether or not the documentation supports the conditions and /or treatments, the reviewer must request assistance from a supervisor, the Level of Care Administrator or other designee. Guidance will be given to help determine which decision is appropriate. More documentation may be required and requested. These situations should be rare, but are possible.

#### 6.4. PATHWAY 7

Pathway 7 is only applicable to individuals who meet **all** three of the following criteria:

- They are currently enrolled in and receiving services from either a waiver or state plan HCBS program, or a Medicaid reimbursed nursing facility, AND
- They were receiving these same services prior to 12/01/2006, AND
- They have had no break in service to the present day.

The individual qualifying **only** under Pathway 7 (no other pathway is triggered) is eligible for continued enrollment and delivery of services from that specific program. If the individual's current level of care eligibility rests only on the fact that he triggers Pathway 7, he may not transition from the current program to another (See Sections 9.1 and 9.2.).

Pathway 7 was included in LOCET in order to ensure that the individual who had begun receiving services prior to implementation of LOCET would not be discharged from the program in which they were currently receiving services based on failure to meet level of care requirements. Those individuals are eligible to remain in their current services for as long as they continue to need the service, whether or not they ever meet another Pathway.

It should be noted that an individual who is eligible for approval in Pathway 7 may subsequently trigger on another Pathway on LOCET or on an MDS-HC. Pathway 7 should be used as the default approval Pathway only in the event that no other Pathway triggers and only for an individual who meets all three of the above-named criteria.

See Section 8.2.1 for important information regarding persons eligible for Pathway 7 but who trigger other Pathway(s) on MDS-HC assessments.

## 6.5. PHONE LOCETs RENDER PRESUMPTIVE APPROVALS

First-hand visual knowledge of a client's condition is always a positive factor in conducting a functional assessment. In these cases, the Intake Analyst is able to see how the individual moves and interacts with all persons present during the interview. The analyst has a greater ability to know when additional probing is needed for any LOCET item in order to get to the point in question. For some programs, this face-to-face LOCET interview is possible. For other programs, the LOCET Intake Analyst will only have contact with the client by telephone. Most HCBS programs utilize a contracted telephone call center for LOCET completion.

When the LOCET is conducted by telephone, an approval determination is said to be "presumptive." When the LOCET interview is conducted in person (face-to-face with the individual), that approval determination stands, and is not considered to be "presumptive." It can, however, be superseded by an Audit Review determination as explained in Section 10.0.

MDS-HC assessments are done as face-to-face interviews and therefore are able to capture a full range of assessment criteria as compared to a telephone LOCET. For this reason, Louisiana OAAS has determined that an MDS-HC assessment done by a qualified and consistently accurate assessor will supersede or "override" a telephone LOCET in determining nursing facility level of care.

## 7.0. IMMINENT RISK DETERMINATION

Some programs which OAAS administers require a determination of Imminent Risk of Nursing Facility Placement prior to final eligibility for the programs. Consult the specific program chapter to determine if Imminent Risk of Nursing Facility Placement is required for a particular program.



In addition to the presumptive determination of nursing facility level of care, information gathered on the LOCET will also help to determine if the individual has met Imminent Risk criteria. Imminent Risk criteria are designed to point out those individuals who are at risk of entering a nursing facility within the four month period immediately following the date the LOCET is completed.

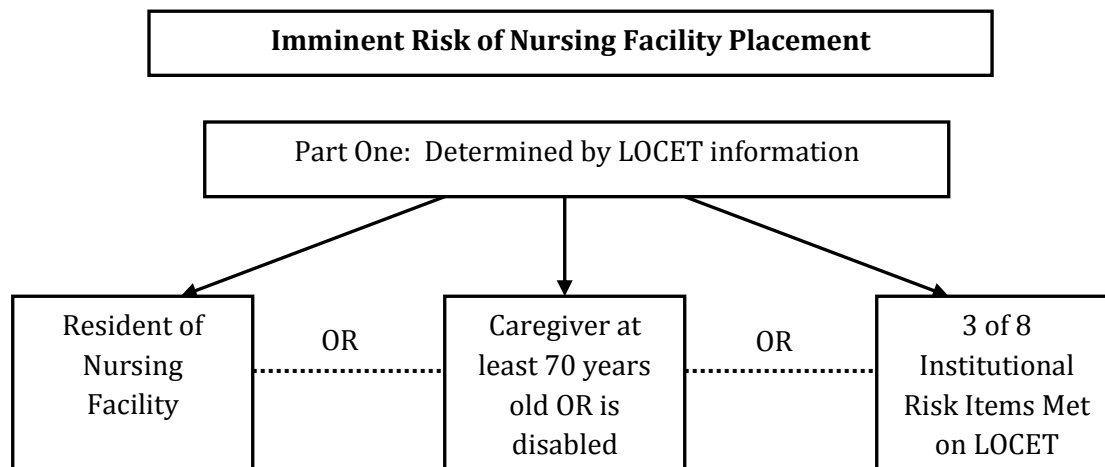
**NOTE:** The Imminent Risk determination on LOCET is not to be confused with the Institutional Risk CAP on the MDS-HC. An Imminent Risk determination will be made only via the LOCET. There is no requirement that the Imminent Risk determination be verified by any data gathered on the MDS-HC.

The Imminent Risk determination will be a two-part process if Imminent Risk is not triggered in the first part of the determination.

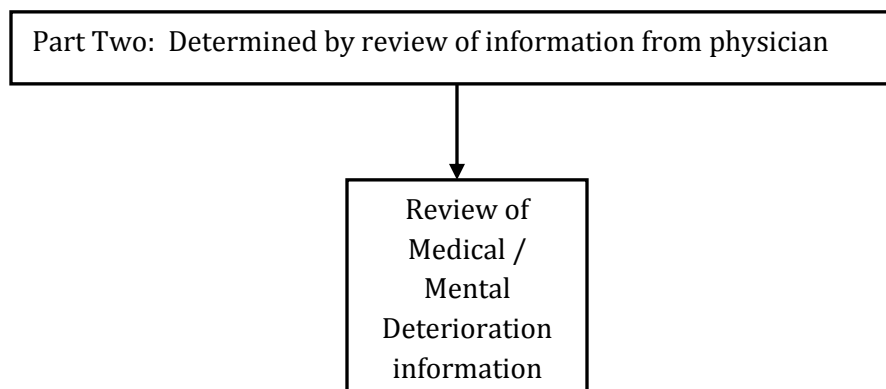
Part One of the Imminent Risk determination is indicated by the Imminent Risk CAP display of “Did Not Trigger” or “Triggered” on the LOCET.

## Schematic for Imminent Risk Determination Process

The schematic shown below is a basic depiction of the two-part review process for determination of Imminent Risk of Nursing Facility Placement.



If Imminent Risk is not determined to be met on Part One, the review continues to Part Two.



### 7.1. IMMINENT RISK -- PART ONE:

Part One of the Imminent Risk determination is made by using the information gathered during a LOCET interview. The three ways in which an individual may meet Imminent Risk in this manner are:

1. As a current resident of a Nursing Facility (Section 7.1.1.), OR
2. By having a caregiver who is disabled or who is age 70 or over (Section 7.1.2.), OR
3. By meeting three of eight criteria which are designated as indicators of risk of nursing facility placement in the near future (Section 7.1.3.).

#### *7.1.1. IMMINENT RISK, PART ONE: NURSING FACILITY RESIDENCE:*

Residents of nursing facilities are deemed to meet Imminent Risk criteria by their presence in the nursing facility. LOCET elicits the location of the client at the time of the interview. When this location is stated to be a nursing facility, the Intake Analyst will ask further questions to verify residence, such as admit date and facility address. Verification of nursing facility residence may be made using the MEDS system.

#### *7.1.2. IMMINENT RISK, PART ONE: CAREGIVER AGE OR DISABILITY:*

Caregiver Age of 70 and older or Caregiver Disability will trigger the Imminent Risk determination alone, without the presence of any other Institutional Risk item. Caregiver disability is defined as any condition which can be verified which points to a disabling condition which may impact the caregiver's ability to function.

##### **7.1.2.1. Caregiver Status Requires Verification:**

If a client has met Imminent Risk criteria solely on the basis of caregiver status, he will be asked to submit documentation of the caregiver's age and/or disability. After review of this documentation, the confirmation or rejection of caregiver status is entered into the software system. The software display will then show the result of this caregiver status documentation review.

Acceptable forms of verification of age are a birth certificate or any identification document issued by a government agency which shows date of birth. If the caregiver submits other

forms of documentation of age, the Level of Care Administrator (or other OAAS designee) must be contacted to determine validity of such documents.

Documentation of caregiver disability must be submitted in the form of a Social Security Disability award letter, or a determination letter generated by an insurance company which names the caregiver as recipient of disability benefits. Other documents may be accepted after review by the Level of Care Administrator or other OAAS designee.

**7.1.3. IMMINENT RISK, PART ONE: THREE OF EIGHT INSTITUTIONAL RISK ITEMS REQUIRED:**

Several factors have been identified which, in combination with other characteristics, point to the individual's potential for nursing facility placement within the next 120 days. Those factors are shown in the diagram below. (Detailed instruction regarding the definitions of each item and the proper coding thereof are found in the LOCET System User Intake Manual.)

	<b>THREE of the following Institutional Risk Items</b>
1.	<input type="checkbox"/> Nursing home resident in last 5 years
2.	<input type="checkbox"/> Days out of house within a week
3.	<input type="checkbox"/> Bladder Continence
4.	<input type="checkbox"/> ADL status change in last 90 days
5.	<input type="checkbox"/> Change in mental functioning in last 7 days
6.	<b>The following group counts as one item of the three</b> ( Any item triggering in this group triggers the whole group ) <input type="checkbox"/> Alzheimer's Disease <input type="checkbox"/> Dementia <input type="checkbox"/> Head Trauma <input type="checkbox"/> Multiple sclerosis
7.	<b>The following group counts as one item of the three</b> ( Any item triggering in this group triggers the whole group ) <input type="checkbox"/> Dressing <input type="checkbox"/> Personal Hygiene <input type="checkbox"/> Bathing
8.	<b>The following group counts as one item of the three</b> ( Both items in this group must trigger to trigger the whole group ) <input type="checkbox"/> Meal Preparation <input type="checkbox"/> Shopping

It should be noted that items one through five on the diagram shown are “stand-alone” items in the total count of three required Imminent Risk elements. That is, if an individual’s LOCET indicates that he has any of the conditions listed in items one through five, one point is counted for each of the items one through five.

Items six and seven on this portion of the Imminent Risk determination both have multiple conditions / factors, only one of which is needed to count as one point of the three necessary for this Imminent Risk criteria to be met.

However, item eight requires a combination of factors to be present in order for one of the three required Imminent Risk points to be counted. That is, both shopping and meal preparation must trigger in order for item eight’s one point to be counted in the Imminent Risk determination.

## 7.2. IMMINENT RISK -- PART TWO:

If the individual did not meet Imminent Risk at Part One of the Imminent Risk review process (as determined by LOCET), he moves on to Part Two of the Imminent Risk review. This second part consists of review of medical statements and / or medical documentation

If the individual must meet Imminent Risk criteria, the contracted agency will review the LOCET results for the presence of “Triggered” in the Imminent Risk Client Assessment Protocol (CAP). If the Imminent Risk CAP has not triggered, the contracted agency will send the client a Medical Deterioration Form (OAAS-RF-07-009) for his physician to complete. Upon completion, this form is faxed to the OAAS designee and is reviewed by OAAS-designated reviewers, which will include medical personnel.

A determination will be made as to whether the physician’s documentation submitted indicates:

1. The individual will be at risk of Nursing Facility Placement if Home and Community-Based Services are not provided within 120 days -- OR --
2. The individual will be at substantial risk of medical or mental deterioration if Home and Community-Based Services are not provided within 120 days.

The results of this Imminent Risk Part 2 review will be input into Section K and in the Notebook of the LOCET, as instructed in the LOCET System User Intake Manual.

If the review of the Medical Deterioration Form (OAAS-RF-07-009) indicates that the criteria for Imminent Risk of Nursing Facility placement is not met, the individual must complete another LOCET according to current protocol in order to submit another Medical Deterioration Form (OAAS-RF-07-009) for review.

## 8.0. USE OF THE MDS-HC IN LEVEL OF CARE DETERMINATIONS

### 8.1. INITIAL ELIGIBILITY: USE OF THE MDS-HC IN LEVEL OF CARE DETERMINATIONS

Verification of the LOCET results can be accomplished, in part, by viewing the Client Assessment Protocols (CAPs) on the Louisiana Minimum Data Set - Home Care (MDS-HC) to determine if LOCET Pathways 1, 2 or 6 are triggered. This will indicate whether or not nursing facility level of care is met on the Activity of Daily Living, Cognition or Behavior Pathways in LOCET. This is possible because the LOCET questions are taken directly from the MDS assessment tool and eligibility as determined by LOCET Pathways 1, 2 and 6 can be verified from the answers provided on the MDS-HC. The Louisiana MDS-HC has been enhanced to compute and display the LOCET Pathways 1, 2 and 6 triggers.

An MDS-HC assessment done by a qualified and consistently accurate assessor will supersede or “override” a telephone LOCET in determining nursing facility level of care.

### 8.2. ANNUAL REASSESSMENTS AND CHANGE IN STATUS ASSESSMENTS: USE OF THE MDS-HC IN LEVEL OF CARE DETERMINATIONS

The MDS-HC is also used annually to determine continued eligibility for HCBS programs. This annual determination is called an annual reassessment.

When an individual chooses a long-term care service, he is responsible for reporting changes in condition or situation to the OAAS designee. A subsequent MDS-HC assessment may be conducted within a shorter time frame than annually if the client has had changes in condition, supports or residence environment. These subsequent MDS-HC assessments are coded as “change in status” assessments and were previously called interim assessments. An individual must trigger a pathway upon a change in status MDS-HC

assessment and upon annual reassessment in order to meet level of care requirements for continued stay in the HCBS program.

On annual reassessments and on change in status MDS-HC assessments, additional items will be studied to determine the incidence of factors which would point to criteria in Pathways 3, 4 or 5. These items are noted in the table shown here.

<b>TABLE: MDS-HC Items which point to Pathways 3, 4 or 5 criteria</b>		
<b><i>MDS-HC Item</i></b>	<b><i>Short Description</i></b>	<b><i>MDS-HC Score</i></b>
J.1.u.	Pneumonia	1 or 2
N.2.a.	Pressure Sores	3 or 4
P.1.f.	Physical Therapy	≥ 45 min
P.1.g.	Occupational Therapy	≥ 45 min
P.1.h.	Speech Therapy	≥ 45 min
P.2.b.	Respirator	1, 2 or 3
P.2.c.	Other Respiratory Treatments	1, 2 or 3
P.2.g.	Dialysis	1, 2 or 3
P.2.i.	IV infusion – Peripheral	1, 2 or 3
P.2.m.	Tracheostomy care	1, 2 or 3
P.2.o.	Occupational Therapy	1, 2 or 3
P.2.p.	Physical Therapy	1, 2 or 3

If any of the MDS-HC items are shown as coded in the table, a Statement of Medical Status (Form OAAS-PF-06-009) must be obtained to review for the presence of possible level of care eligibility on Pathways 3, 4 or 5.

When the completed Statement of Medical Status (Form OAAS-PF-06-009) is received, the OAAS-designated reviewer will compare the information submitted to the criteria found in memo OAAS-ADM-08-015. If the Statement of Medical Status (Form OAAS-PF-06-009)

information matches the criteria noted in memo OAAS-ADM-08-015, level of care eligibility for continued stay is met. If not, the case is denied.

#### *8.2.1. PATHWAYS 1, 2 AND 6 MUST ALWAYS BE EXAMINED*

An MDS-HC is completed (along with other documents needed for the individual's Plan of Care) during each reassessment and change in status interview. Upon completion of the MDS-HC, the OAAS-designated reviewer must review all Client Assessment Protocols (CAPs) on the MDS-HC to determine if Pathway 1, 2, or 6 has triggered. This is true for all HCBS individuals, regardless of when they began services with an HCBS program.

In other words, even if an individual began to receive services from an HCBS program prior to 12/01/06, eligibility by Pathways 1, 2 or 6 must be determined by examining the MDS-HC CAPs and documentation in the Notebook of the MDS-HC, as noted in Section 11.1. If this individual, who is also eligible for Pathway 7 consideration, triggers Pathways 1, 2 or 6 on the reassessment or change in status MDS-HC, he will have met level of care on Pathway 1, 2 and/or 6 until his next MDS-HC is completed. Pathway 7 will not be his Pathway of approval unless he does not trigger Pathway 1, 2 or 6.

Individuals who entered the system or applied for services after 12/1/06 are not subject to Pathway 7. They must pass another pathway to obtain initial program eligibility and they are required to pass another pathway annually when they are reassessed. (See Section 6.4 regarding Pathway 7.)

## 9.0. TRANSITIONING BETWEEN PROGRAMS

### 9.1. TRANSITIONING FROM HCBS PROGRAM TO HCBS PROGRAM

If an individual wishes to transition from one long-term care program to another, he must meet level of care eligibility on Pathways 1, 2 or 6 on his latest MDS-HC assessment in his current program. If he does not trigger Pathways 1, 2 or 6 he may submit medical documentation which would support level of care criteria for Pathways 3, 4 or 5 in order to transition to the desired program.

However, if the individual's current level of care eligibility rests only on the fact that he triggers Pathway 7, he may not transition from the current program to another.



## 9.2. TRANSITIONING OUT OF A NURSING FACILITY

Individuals leaving a nursing facility are deemed, by their presence in the nursing facility, to meet nursing facility level of care and Imminent Risk criteria. They are eligible to transition to any HCBS program if all program requirements are met for the desired HCBS program. No LOCET is required for transition out of a Nursing Facility to an HCBS program.

These individuals will be required to meet nursing facility level of care upon annual reassessment as noted in Section 8.2.

## 10.0. AUDIT REVIEWS

OAAS conducts ongoing LOCET audit reviews on a sample of all individuals who receive long term care services, for both Nursing Facility and Home & Community-Based Services programs. A random sample of recent LOCETs is pulled and distributed to the OAAS regional office staff throughout Louisiana.

OAAS regional office staff members conduct face-to-face LOCETs with the selected individuals, and OAAS is able to compare results of the original LOCET with the face-to-face audit LOCET. The results of the audit LOCET will supersede any other previous LOCET determination, including an original face-to-face LOCET conducted in a nursing facility by nursing facility staff.

During the original LOCET interview, the individual is told of the possibility of an audit review and the original letter sent to the client indicates a "Preliminary Decision" regarding level of care.

## 11.0. GUIDANCE IN CASE REVIEW

### 11.1. INITIAL ELIGIBILITY: DISCREPANCIES IN MDS-HC RESULTS WHEN COMPARED TO LOCET RESULTS

As stated earlier, MDS-HC results will supersede a LOCET determination. However, when the OAAS regional office staff has reason to doubt the validity of the MDS-HC results based

upon their knowledge and experience, the OAAS regional office staff has the authority to conduct a face-to-face MDS-HC assessment and to also require a repeat MDS-HC by a contracted designee to further clarify the individual's level of care status. OAAS regional office staff MDS-HC result supersedes others submitted for review.

#### 11.2. INITIAL ELIGIBILITY: EXCEPTION QUESTIONS (CAREGIVER DRILLDOWN) NOT INCLUDED ON MDS-HC

As stated in Section 6.1, Exception Criteria on LOCET will identify those individuals who do not have available active caregivers. Alternate Pathway 1 questions will be asked of these individuals on LOCET which identify their personal difficulty levels when completing Activities of Daily Living.

Currently the MDS-HC protocol does not include the Caregiver Drilldown Exception Criteria. Without these alternate questions, the individual's Activities of Daily Living items will have indicated that no assistance was given, and therefore the individual will have scored as "independent" (MDS-HC score of zero for item(s) in Section H.2). MDS-HC assessors are trained to be aware of situations where the individual states he has received no help with Activities of Daily Living or if an Activity of Daily Living did not occur in the look back period (MDS-HC score of eight for any item in Section H.2). If a zero or an eight is recorded for any Activity of Daily Living, the assessor is to ask additional questions to elicit his difficulty level in personal performance of those "zero / eight" Activities of Daily Living items.

If the answers to these questions indicate that the individual has a difficulty level in self-performance equal to or greater than the MDS-HC definition of Limited Assistance for at least one of the late-loss Activities of Daily Living (eating, toileting, transferring and bed mobility) he will be determined to meet Nursing Facility level of care on Pathway 1. This documentation will provide the necessary information regarding the Exception Criteria in level of care determinations.

#### 11.3. INITIAL ELIGIBILITY: PATHWAYS 1, 2 OR 6 AND PATHWAY 3, 4 OR 5 TRIGGERED ON LOCET, SUBSEQUENT MDS-HC DOES NOT TRIGGER PATHWAY 1, 2 OR 6

If an HCBS program client triggers LOCET Pathways 1, 2 or 6 *and* on Pathways 3, 4, 5 or 7, no Statement of Medical Status (Form OAAS-PF-06-009) is required to be submitted at the

time the LOCET is completed. The HCBS program requestor whose LOCET triggers in this manner will be presumptively approved for services and will receive a full in-home MDS-HC assessment (see Section 6.3).

However, if Pathways 1, 2, or 6 are *not* triggered on the subsequent in-home MDS-HC assessment, a Statement of Medical Status (Form OAAS-PF-06-009)) must be elicited from the individual in order to investigate the possibility that Pathways 3, 4 or 5 criteria may currently be met, since Pathways 3, 4 or 5 triggered on the initial LOCET.

The Pathways 3, 4 or 5 review protocol (See Section 6.3.) must be followed for the review of this Statement of Medical Status (Form OAAS-PF-06-009). If the individual's Statement of Medical Status (Form OAAS-PF-06-009) demonstrates that level of care criteria are met, the HCBS individual will be approved. If the Statement of Medical Status (Form OAAS-PF-06-009) does not support level of care criteria for Pathways 3, 4 or 5 the request for services will be denied.

#### 11.4. INITIAL ELIGIBILITY: PATHWAY 3, 4 OR 5 TRIGGERS ON LOCET, SMS SUPPORTS, NO PATHWAY 1, 2 OR 6 ON MDS-HC

If an individual triggered on Pathways 3, 4 or 5 on the latest LOCET and the Statement of Medical Status (Form OAAS-PF-06-009) submitted for that LOCET review indicated he met Level of Care, that approval determination will be adopted for the MDS-HC review, even if no Pathways are triggered on the MDS-HC.

## 12.0. SUMMARY OF NURSING FACILITY LEVEL OF CARE DECISION-MAKING PROCESS

### 12.1. INITIAL ELIGIBILITY DETERMINATIONS

All pathways of eligibility should be investigated with each individual as noted in this chapter. In other words, if Pathway 1, 2 or 6 is triggered on the MDS-HC, the individual is determined to meet Nursing Facility level of care without need for Exception criteria documentation for Pathway 1 in the Notebook of the MDS-HC. If neither Pathway 1, 2 nor 6 is triggered on the MDS-HC and the Notebook of the MDS-HC does not indicate the individual has a difficulty level in self-performance equal to or greater than the MDS-HC definition of Limited Assistance for any of the late-loss Activities of Daily Living (eating,

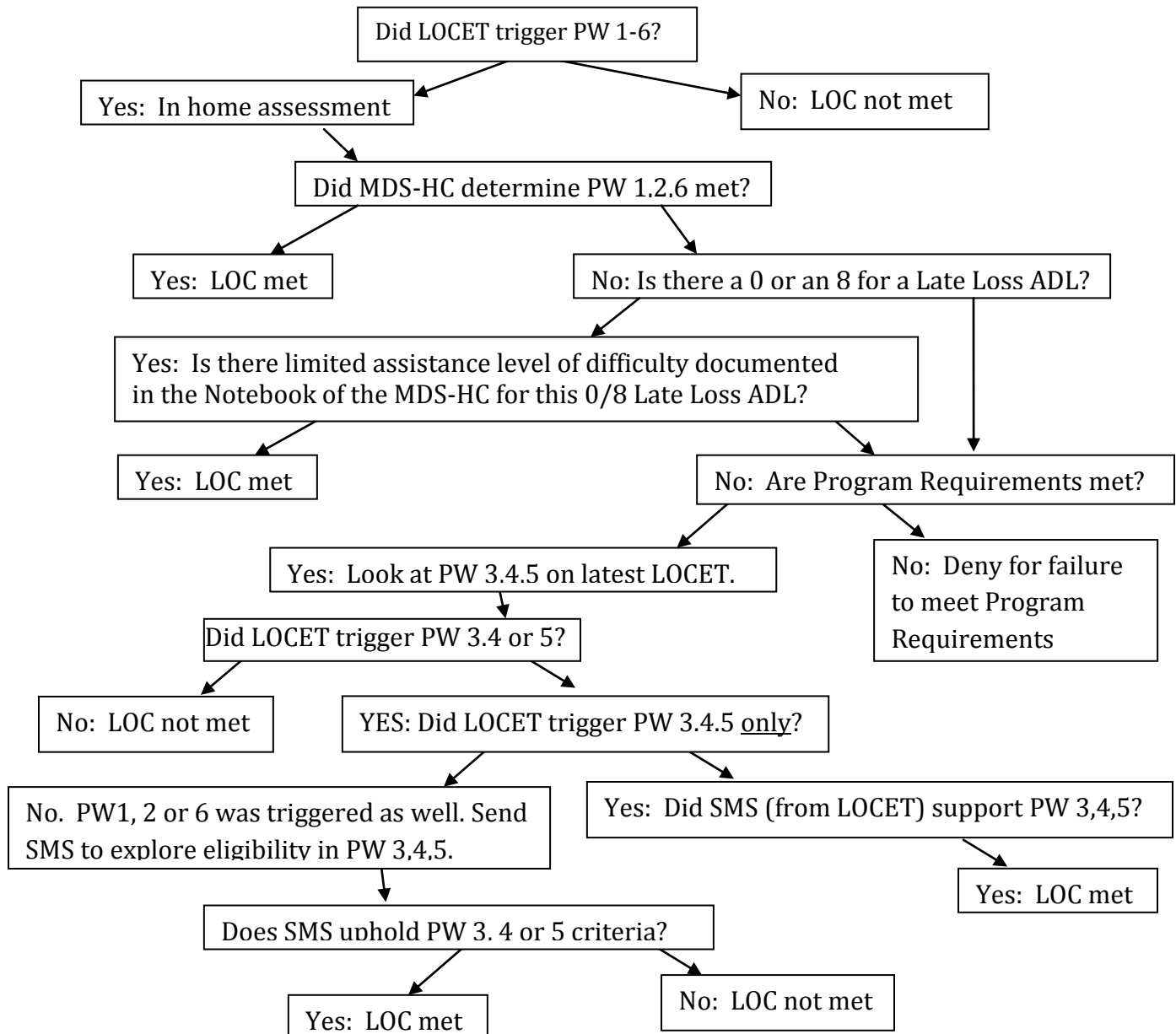
toileting, transferring or bed mobility), Nursing Facility level of care is not supported by the MDS-HC assessment.

If the initial requestor has not met level of care at this point in the level of care determination process, the previous LOCET decision for the individual must be reviewed. If the individual had triggered Pathway 3, 4, or 5 in conjunction with Pathway 1, 2 or 6 on the LOCET, a Statement of Medical Status (Form OAAS-PF-06-009) must be requested so that the nursing facility level of care determination on the MDS-HC will be complete. If, upon review of the Statement of Medical Status (Form OAAS-PF-06-009) the criteria for triggering Nursing Facility level of care is not demonstrated (see Section 6.3 for process and memo OAAS-ADM-08-015 for criteria) the individual's request for services must be denied.

See NOTE in Section 6.2 for information about individuals who triggered Pathways 3, 4 or 5 only on the LOCET and whose Statement of Medical Status (form OAAS-PF-06-009) supported the triggered Pathway.

### **Schematic for Initial Request -- Nursing Facility Level of Care Determination Process for HCBS Requestors**

(For a schematic on Imminent Risk Determination, see Section 7.0. For a full discussion of Pathway 7 eligibility, see Section 6.4.)



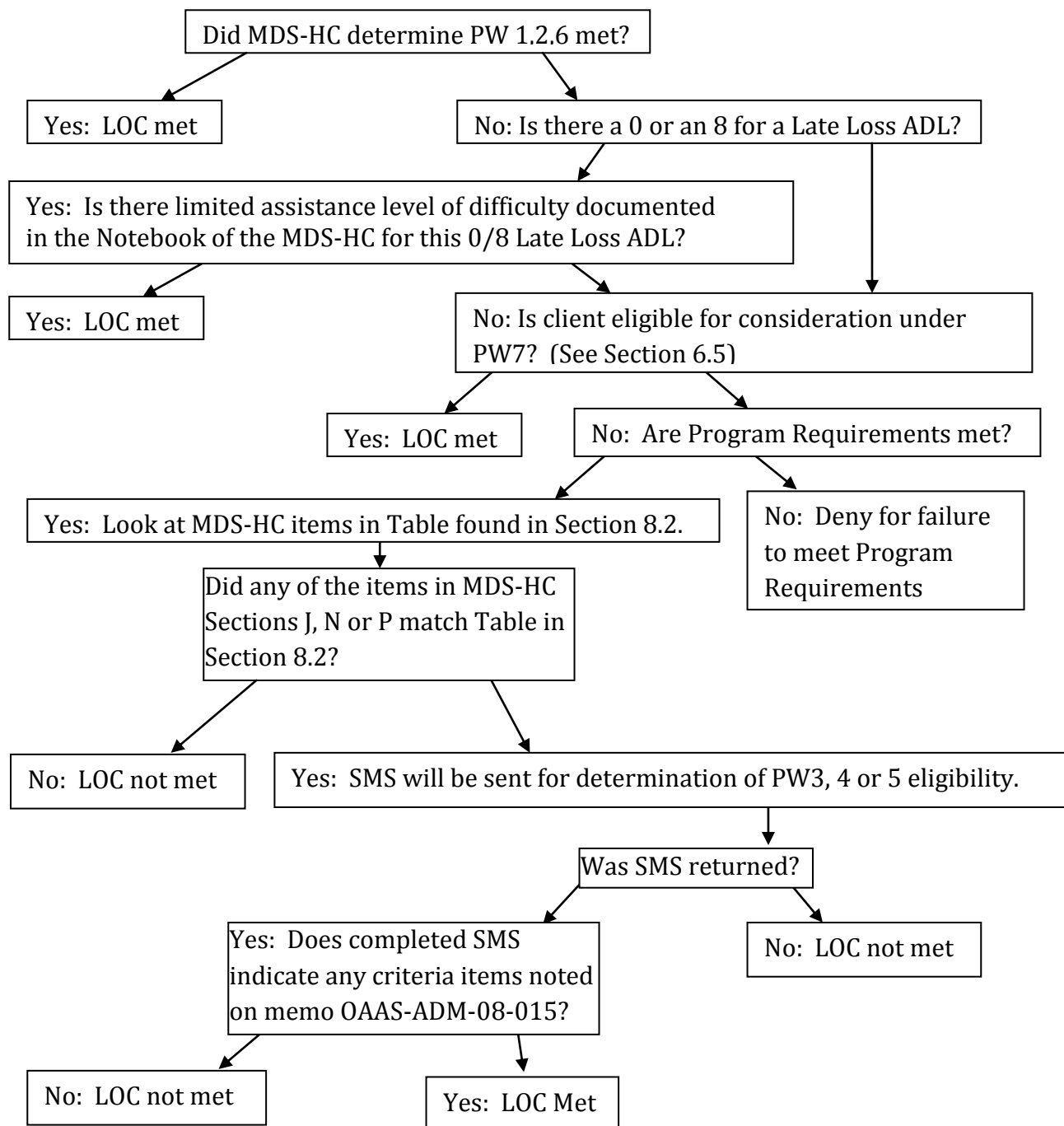
## 12.2. ANNUAL REASSESSMENT AND CHANGE IN STATUS ELIGIBILITY DETERMINATIONS

All pathways of eligibility should be investigated with each individual as noted in this chapter. In other words, if Pathway 1, 2 or 6 is triggered on the MDS-HC, the individual is determined to meet Nursing Facility level of care without need for Exception criteria documentation for Pathway 1 in the Notebook of the MDS-HC. If neither Pathway 1, 2 nor 6 is triggered on the MDS-HC and the Notebook of the MDS-HC does not indicate the individual has a difficulty level in self-performance equal to or greater than the MDS-HC definition of Limited Assistance for any of the late-loss Activities of Daily Living (eating, toileting, transferring or bed mobility), Nursing Facility level of care is not supported by the MDS-HC assessment.

At this point the individual's eligibility to be considered under Pathway 7 must be determined (See Section 6.4.). If the individual was receiving such services prior to 12/01/2006 with no break in service to the present day he is eligible for consideration under Pathway 7. The individual qualifying only under Pathway 7 is eligible for continued enrollment and delivery of services from that specific program.

If the individual is not eligible for consideration in Pathway 7, at this point in the level of care determination, information from the MDS-HC will be used to determine if Pathways 3, 4 or 5 might trigger a level of care decision. Using the Table in Section 8.2, the individual's MDS-HC will be examined in the items noted in the Table. If there are MDS-HC scores for the noted items which correspond to those shown in the Table, a Statement of Medical Status (Form OAAS-PF-06-009) must be sent to the individual to determine if Pathways 3, 4 or 5 are met. If, upon review of the Statement of Medical Status (Form OAAS-PF-06-009) the criteria for triggering Nursing Facility level of care is not demonstrated (see Section 6.3 for process and memo OAAS-ADM-08-015 for criteria) the individual's request for services must be denied.

**Schematic for Annual Reassessment or Change in Status -- Nursing Facility Level of Care Determination Process for HCBS Requestors**



### **13.0. APPEALS ON CASES DENIED FOR NURSING FACILITY LEVEL OF CARE OR IMMINENT RISK**

All cases denied for failure to meet Nursing Facility level of care and / or Imminent Risk for nursing facility placement may be appealed by the individual or someone acting on his behalf. The instructions for filing an appeal of an OAAS decision are included on every denial letter issued. The appeal must be in writing and must be submitted within 30 days from the date of the denial notice.

All appeals based on LOCET denials (both on Nursing Facility level of care and Imminent Risk) and for Long Term-Personal Care Services (not waiver-related) are handled by the OAAS State Office. The appeals process is discussed in the OAAS Policy & Procedure Manual.

OAAS regional offices handle appeals cases which arise from HCBS Waiver programs waiver or nursing facility admission.